

REMARKS

With entry of the instant amendment, claim 3 has been amended and claims 12, 13, and 32-35 have been cancelled. Claims 12, 2, 4, and 14-31 were previously cancelled. Claims 3 and 5-11 are therefore under examination. Cancellation of subject matter is without prejudice for subsequent prosecution in a divisional or continuation filing.

The amendments add no new matter. Claim 23 has been amended to indicate that "SIV-1" is an abbreviation of "simian immunodeficiency virus-1".

Information Disclosure Statement

The Examiner alleges that the information disclosure statement filed August 19, 2003 fails to comply with 37 C.F.R. § 1.98(a)(2), which requires a legible copy of each cited foreign patent document and non-patent literature publication. Although Applicants submitted the documents in the parent application, neither paper copies nor electronic copies were available for review. The Examiner notes that supplying copies of the documents may expedite consideration of the references. In response, enclosed herewith are additional copies of the cited references.

It is noted that the IDS filed on August 19, 2003 was compliant, as it included a references to the copies of references in the parent application files. These references were properly submitted in the parent applications, as evidenced by the fact that they were initialed by the Examiner. Applicants therefore believe that no fee is due for providing additional copies of the references.

Objection to the specification--priority information

The Examiner has requested that the priority information be updated to reflect that the parent application has issued as a patent. The amendment to the specification provides the updated status.

Sequence listing requirement

The Examiner contends that the application fails to comply with the sequence listing requirements. In particular, the Examiner notes that, if the sequence listing is identical to that in the parent application, Applicants may submitted a copy of a request in accordance with 37 C.F.R. § 1.821(e) asking that the CRF from the parent be used. The Examiner acknowledged by telephone in response to an inquiry from Applicants' representative that such a statement was provided with the application as filed. However, Applicants submit herewith a second statement under 37 C.F.R. § 1.821(e), including a second paper copy of the sequence listing as filed in the parent.

Claim objections

Claim 3 was objected to over the recitation of "comprising a SIV-1 gag gene". Applicants believe that the rejection is obviated by the amendment to claim 3. It is not clear whether the Examiner was additionally requiring an amendment to the claim to italicize "gag". However, it is noted that the term "gag" was italicized in the claims as filed, therefore the amendment does not reflect that "gag" is newly italicized.

Rejection under 35 U.S.C. § 112, second paragraph

Claims 3 and 4-11 was rejected as allegedly indefinite. The Examiner contends that the reference to "SIV-1" in claim 3 is confusing. Amended claim 3 now recites "SIV" rather than "SIV-1". Applicants therefore respectfully request withdrawal of the rejection.

Rejection under 35 U.S.C. § 101

Claims 6-8 were rejected as allegedly directed to non-statutory subject matter. The Examiner contends that the term "cell" as defined by the specification encompasses gene therapy application where the host cell would be present in human beings. The Examiner believes that the scope of the claims therefore encompasses a human being, which is non-statutory subject matter. In the interest of expediting prosecution, claim 6 has been amended to

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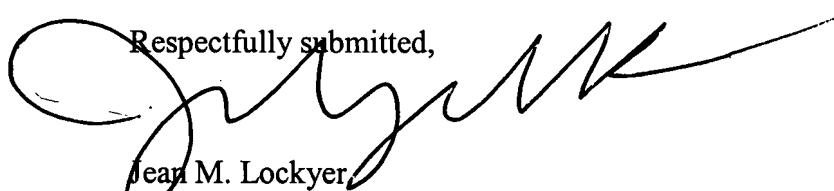
recited an "isolated" host cell. Applicants therefore respectfully request withdrawal of the rejection.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,


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